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Remarks

Referring to the classification terminology employed by the Examiner, Applicant hereby elects without traverse the invention of Group I, which includes claims 1-98, for further prosecution. Accordingly, claims 99-112 are withdrawn. However, Applicant reserves the right to prosecute these claims in a later-filed application.

In response to the Examiner's suggestion that the application contains claims directed to patentably distinct species, Applicant would like to clarify an apparent misunderstanding by the Examiner regarding the disclosure (and claims). The Examiner points to Figures 1, 8, and 13 as each disclosing a separate species. However, Applicant is not attempting to claim either of the devices shown in Figures 8 or 13 and these devices should therefore not be considered "species" of the invention.

To illustrate, the "femoral distal cut guide 200" shown in Figure 8 is a device that is used by a surgeon prior to use of the knee balancing block or cutting guide device claimed in each of the pending claims. See, e.g., ¶ 90 of the published application (U.S. Patent Publication No. 2005/0049603). The femoral cut guide shown in Figure 8 is used, as the name implies, to cut the distal portion of the patient's femur. See id. The claimed device is ultimately positioned on this flat, cut portion of the femur in order to accomplish further cuts. See, e.g., ¶ 42 ("The A/P cutting guide device 10 of the present invention may be configured and dimensioned to be placed on a substantially flat, previously resected distal femur.") (emphasis added).

Likewise, the "A/P sizing guide 60" shown in Figure 13 is a device that is used prior to use of the claimed cutting guide device. In fact, the A/P sizing guide is used to place the "quick pins 150 and 152," which ultimately are used to hold the claimed cutting guide device in place. See, e.g., ¶s 93-94. The A/P sizing guide shown in Figure 13 is removed before the claimed device is used. See, e.g., ¶ 95 ("[A]fter the femoral component has been sized, the A/P sizing guide 60 may then be removed from the quick pins 150 and 152 . . ."). Thus, it should be understood that each of the pending claims 1-98 are directed to the one and only species disclosed in the application, which is shown in FIGS. 1-5.

Because there is only one species disclosed in the application, and because each of the pending claims 1-98 read on that species, Applicant requests reconsideration and withdrawal of the election requirement and further submits that a provisional election should not be required. To the extent the Examiner still believes a substantive response requires a provisional election of species, Applicant elects the species of Figure 1 and submits that, as explained above, all of the pending claims read on this species.

Please contact the Applicant's undersigned attorney at 801-578-6924, in the event the Examiner has any questions or comments regarding the foregoing which could be resolved through a telephonic interview. Also, please contact Applicant's undersigned attorney in the event that any remaining impediment to the prompt allowance of this application is found, which could be clarified by a telephonic

interview, or which is susceptible to being overcome by means of an Examiner's Amendment.

DATED this 27<sup>TH</sup> day of July, 2006.

Respectfully Submitted,



Matthew D. Thayne  
Registration No. 52,280  
Customer 32642

One Utah Center  
201 South Main Street, Suite 1100  
Salt Lake City, Utah 84111  
(801) 578-6924  
(801) 578-6999